



## Livestock Facility Siting

### ***Livestock Siting Monthly Report -- May 2006***

#### **Rule Highlights and Accomplishments**

- ATCP 51 will be published on April 30, 2006.
- The rule will become effective on May 1, 2006, except that state law mandates a delayed effective date of July 1, 2006 for small businesses.

#### **Review Board Appointments**

- Secretary Nilsestuen nominated Livestock Facility Siting Review Board members from a list of candidates provided by stakeholder groups. Nominees include: Lee Engelbrecht (Towns), Andy Johnson (Counties), Him Holte (Livestock Farming), Bob Selk (Environmental), Dr. Jerry Gaska (At-Large), Fran Byerly (At-Large), and Bob Topel (At-Large).
- The state Senate held a confirmation hearing on April 13 for 6 of the 7 nominees.

#### **Information and Outreach**

DATCP has begun an extensive information and outreach effort. DATCP staff have delivered 42 outreach and training sessions since the February 8, 2006. The training sessions have primarily targeted local governments and producers.

#### **Local Government Education**

- Worked with UW-Extension to develop and pilot test a livestock siting curriculum. The workshop curriculum was piloted three times: in Waupaca, Manitowoc/Calumet/Kewaunee, and Fond du Lac. DATCP and UW-Extension are currently evaluating the pilot workshops and revising the curriculum.
- UW-Extension named David Liebl as a specialist to help with Livestock Siting.
- Provided updates and received feedback on the siting law and rule at the WALCE conference and at six listening sessions for Land Conservation Department staff and other partners.
- Delivered four training programs organized by the Wisconsin Towns Association.
- Provided specialized training to Barron, LaFayette, Langlade, Jefferson, and Green Counties.

#### **Producer Education**

- Demonstrated the odor standard and delivered two workshops at the PDPW annual business meeting. PDPW donated the cost of the booth.
- Demonstrated the odor standard at large dairy herd meetings in Fond du Lac, Manitowoc and Calumet counties.

- Provided training at the Wisconsin Cattleman's Association annual conference.
- Demonstrated the odor standard at the Wisconsin Federation of Cooperatives dairy committee.

### **Other Education**

- Provided overview of law and rule to farm managers and lenders in northeastern Wisconsin.
- Provided update on the rule and law to the Bio-Gas working group.
- Demonstrated the odor standard at the Wisconsin Bankers Association annual conference and provided a short update on the rule. Provided specialized training to M & I bankers.
- Simplified and reorganized siting website [http://www.datcp.state.wi.us/arm/agriculture/land-water/livestock\\_siting/siting.jsp](http://www.datcp.state.wi.us/arm/agriculture/land-water/livestock_siting/siting.jsp) to better share critical information, and will continue improvements as a part of bi-weekly updates.
- Prepared and revised about 40 fact sheets to better address specific implementation issues and meet information needs of targeted audiences
- Working with the University of Wisconsin Soil Science Extension to develop and refine an interactive map (<http://www.soils.wisc.edu/extension/235/>) that provides detailed information on which local governments require a conditional use permits for new and expanded livestock facilities.

## **Issues and Implementation Challenges**

The following are the key implementation challenges identified over the past three months.

### **Dual Effective Dates**

State law enacted in 2003 Wisconsin Act 145 (the "Small Business" Act) provides that, if a rule has an impact on small business, the effective date of the rule is automatically delayed by 2 months for small businesses (not for other businesses or local governments). Thus, although the Livestock Facility Siting rule generally takes effect on May 1, the effective date for small business is July 1.

The dual effective dates (May 1 and July 1) are very confusing for both local governments and producers. There is uncertainty about how to handle "small businesses" during the period when a local government's old ordinance is no longer effective but the siting standards are not yet required. Because this 2-month delay is now required by statute, it will be a problem for all future DATCP rules that affect small businesses.

### **Complexity of Law and Rule**

The siting law and rule are complex, making training for local government officials time-consuming. We are finding it difficult – and often counter-productive – to do large-group training because the existing local regulatory landscape is so varied and local officials need specialized assistance.

In our outreach efforts, we have found a greater immediate demand for information about the zoning aspects of the siting law than for information about permits. DATCP staff, with less expertise in local zoning law, may not have the capacity to meet this educational need. In counties with a mix of zoned and unzoned towns, with differing permit requirements, we have noted interest in administering the rule through a licensing ordinance to ensure county-wide coverage.

We are finding that there is a great deal of confusion and misinformation about the basic premises of the livestock siting law and rule, including the basic concept that livestock siting is a local choice, not a state mandate.

### **Conflict of Interest**

Because of conflict of interest concerns, local governments are struggling with what the role of the land conservation departments can and should be in assisting applicants with worksheets, administering permits, and helping zoning and town officials review worksheets.

### **Timeline to update ordinances**

Local governments are concerned about the 6-month timeframe to update their ordinances. They are evaluating their options to take advantage of the 6-month “grace period”, and have reached different conclusions on how they can continue to issue permits without formally modifying their ordinances. Additionally, there continues to be confusion about who is affected by the 6-month grace period. Local governments have repeatedly asked DATCP for a model ordinance and we are working with the Wisconsin Towns Association and Wisconsin Counties Association to develop a model ordinance.

### **Impact of Siting Law and Rule on Existing Ordinances**

Local governments are struggling with how the siting law and rule interacts with and impacts existing ordinances, such as county manure storage ordinances. They are trying to determine whether their existing ordinances are easier to administer and offer similar or greater protection than the siting rule.

### **Local Administration**

Local governments, particularly towns, are very concerned with the administrative responsibilities if they decide to issue permits. There is a lot of concern about who will issue the permits, review the worksheets, and enforce the permits, as well as how much this will cost.

Local governments with grandfathered thresholds are concerned that applicants under 500 AU that are building new storage are not required to complete a Nutrient Management plan if they demonstrate adequate land base. These applicants would have been required to have a nutrient management plan under the county waste storage ordinance.

## **More Stringent Standards**

Local governments are considering whether to impose more stringent standards to protect public health and safety. They are evaluating if they can continue to enforce unique local standards in their ordinances or add new standards to address gaps in the state standards. Local governments need better guidance on how to meet the “public health and safety” test.

## **Technical Assistance Team**

Internal DATCP discussion is underway regarding the need for a Technical Assistance Team to provide farmers technical and other assistance to facilitate completion of the application and worksheets for local permits required under ATCP 51.

## **Ordinance Updates**

No local government has submitted a new or amended ordinance to date. However, ordinance revisions will gather momentum as we approach November 1, 2006. By this date, local governments must amend their ordinances to incorporate state standards if they intend to continue issuing individual permits for new and expanded facilities

## **Applications and Actions**

None

## **Siting Standards**

None

## **Research and Grant Activities**

Conservation Innovation Grant: Wisconsin's Dairy and Livestock Air Emission/Odor Project

The steering committee solicited applications from producers to participate in the grant project and received 15 applications. The technical committee has visited the sites. The steering committee will be making selections at its meeting on April 24, 2006.